

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 98 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE D.P.BUCH

=====

1. Whether Reporters of Local Papers may be allowed  
to see the judgements? : Yes
2. To be referred to the Reporter or not? yes :
3. Whether Their Lordships wish to see the fair copy :  
of the judgement? No
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?  
:No

-----  
GSRTC

Versus

PRABATSINH RUPSINH PARMAR

-----  
Appearance:

MR YOGESH S LAKHANI for Petitioner

-----  
CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE D.P.BUCH

Date of decision: 23/09/1999

ORAL JUDGMENT (Per. Y B Bhatt, J.)

1. This is an appeal under Section 173 of the Motor  
Vehicles Act, 1988, (hereinafter referred to as 'the said

Act') at the instance of Gujarat State Road Transport Corporation, challenging the judgment and award passed by the Motor Accident Claim Tribunal (Aux.), Panchmahals at Godhra, passed under Section 166 of the said Act.

2. At the outset, we may emphasize that the only question raised in the present appeal is as regards the rate of interest payable on the compensation awarded. This is challenged on a question of principle, and we shall, therefore, deal with it accordingly.

3. The tribunal has awarded interest at the rate of 15% per annum from the date of the petition till the amount of compensation is deposited in the tribunal. This is in respect of the claim petition filed in February, 1994.

3.1. Learned Counsel for the appellant contends that the interest at the rate of 15% per annum is excessive and according to him, interest at the rate of 12% per annum is fair and reasonable.

4. The question is whether the rate of interest awarded is so outrageous and so exorbitant so as to require interference on a question of principle ?

5. Firstly, it is not disputed that there is no statutory provision as regards rate of interest which the Motor Accident Claim Tribunal may award, while passing an award under section 166 of the said Act. Obviously the rate of interest which may be awarded is left to the discretion of the tribunal.

5.1. It is clearly understood, that such discretion must be judicial discretion, i.e. to say, a discretion which is, or may be judicially exercised within the parameters laid down by number of decisions in this regard. While exercising such discretion, the tribunal may award interest which in its opinion considers to be fair and reasonable. When the question of fairness and reasonableness in determining the rate of interest comes up before the Appellate Court, as it has done in this case before us, we ask ourselves as to how is the fairness and reasonableness to be determined ? In this context, we may only observe that practice and precedent as regards rate of interest awarded in the past by this High Court is only a guideline. We are informed that there is no decision dealing with the rate of interest which may be awarded, on a question of principle. Thus, the practice and precedent which may be available are only guidelines, and guidelines obviously do not lay down

any principle upon which such reasonableness can be judged. We are also of the opinion that reasonableness itself indicates a degree of flexibility in approaching the question with a view to determine a fair rate of interest. It necessarily follows that flexibility rules out rigidity. It is, therefore, not possible to determine that 'X' rate of interest is reasonable, and that any rate other than 'X' is unreasonable. Reasonableness, in principle, connotes a range within which the rate of interest can be said to be reasonable, and necessarily precludes a fixed or specific figure.

5.2. What we can positively indicate in this context, is that the rate of interest can only be such which would be determined by a judicial forum which is prudent, and not such a rate which could not possibly be determined by a prudent forum. Furthermore, it should not be such a rate of interest which would shock the conscience of the Court, and compel interference with the rate of interest awarded, such interference being required on a question of principle. On the facts and circumstances of the case, we are of the opinion that interest at the rate of 15% per annum from the date of the claim petition till the amount is deposited with the tribunal, is not an order of interest which is so unreasonable, or so imprudent, or such which would shock the conscience of the Court, and necessarily compel interference on principle.

6. No doubt, there are a large number of decisions of this High Court and the Supreme Court where the rate of interest at 12% per annum has been upheld or even where the rate of interest has been reduced from a higher figure to 12%. On the other hand, there are also a large number of decisions where interest at the rate of 15% has been upheld and not interfered with. In this context we may also note that wherever interest has been scaled down, this has been done in conjunction with the facts and circumstances of each case, and not on a question of principle.

7. It may be noted that had we been in the place of the tribunal, we might have awarded interest at the rate somewhat less than 15% and perhaps even at 12%. However, as discussed hereinabove, that does not mean that 15% is so outrageously excessive so as to require interference on a question of principle, particularly where the quantum of the award on merits is not challenged.

8. We may, however, observe that interest rates,

speaking generally, have been dropping since approximately two years. It would, therefore, be appropriate that the interest awarded under discretionary powers of a tribunal or other fora in respect of claims preferred in the year 1997 and thereafter should be at a rate somewhat lower than 15%, and in this context, 12% would not be inappropriate.

9. We, therefore, find no substance in the present appeal and the same is accordingly dismissed.

....  
msp.